

## AB 2740 (BROWNLEY)

# PREDATORY LENDING: MORTGAGE SERVICERS

### SUMMARY

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Although Predatory lending has received the bulk of attention, a large share of loan-related consumer complaints involves mortgage servicing, not origination.

### THE ISSUE

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Mortgage servicers are the entities that collect mortgage payments, manage escrow accounts, and work with borrowers to help resolve delinquencies and defaults. They also initiate foreclosure proceedings on behalf of the loan, and attempt to identify and implement loss mitigation strategies on behalf of the lender, to avoid costly foreclosures.

Servicing abuses are pervasive in the industry. The most common problems involve failure to record timely payments and levying of excessive fees. The consequences can be severe. The improper application of even a single mortgage payments can have a snowball effect, resulting in erroneous defaults and/or foreclosures, as well as other negative consequences (such as unlawful/excessive fees and/or improper negative credit reports). Recent studies and press accounts have also found excessive fees imposed by servicers during foreclosure and bankruptcy proceedings.

Under current law, there are few rules or standards for mortgage servicers to follow. Unfortunately, market incentives do not fill this void. Rather, borrowers have no role in choosing a mortgage servicer and cannot fire or replace the servicer for bad services. At the same time, mortgage servicers profit from wrongful fees and other abusive conduct, profit from foreclosures (while loss mitigation efforts cost them), and profit from understaffing their service centers.

The North Carolina Legislature has passed similar legislation that was enacted in April of this year.

### WHAT AB 2740 DOES

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AB 2740 addresses specific harmful practices in the mortgage servicing industry. AB 2740 does the following:

- Sets limits on allowable fees.
- Requires timely posting of payments.
- Requires proper handling of escrow accounts.
- Requires that servicers respond promptly to borrower disputes or requests for information.

### THE OUTCOME

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AB 2740 combined with AB 1830 (Lieu) AB 2880 (Wolk) and AB 2359 (Jones) will take significant steps to remedy the market and regulatory failures that have brought about the most significant housing crisis and credit crunch since the Great Depression. These changes will make the market safer for borrowers, lenders and secondary market investors, and will go a long way to prevent such market disruptions from occurring again in the future.

### SUPPORT

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- Center for Responsible Lending (Sponsor)
- AARP
- Affordable Housing Services
- Amador-Tuolumne Community Action Agency
- Asset Policy Initiative of California (APIC)
- California Alliance for Retired Americans
- California Coalition for Rural Housing
- California Labor Federation
- California Reinvestment Coalition
- California Resources and Training (CARAT)
- Center for California Homeowner Association Law
- CHARO Community Development Corp
- Christi Baker, Chrysalis Consulting Group, LLC
- Civic Center Barrio Housing Corporation
- Community Housing Development Corporation of North Richmond
- Community Legal Services in East Palo Alto

- Consumer Action
- Consumer Federation of California
- EARN
- East Bay Asian Local Development Corp.
- East L.A. Community Corporation (ELACC)
- East Oakland CDC
- Fair Housing Council of Orange County
- Fair Housing Council of San Diego
- Fair Housing Council of the San Fernando Valley
- Fair Housing Law Project
- Gray Panthers California
- Housing and Economic Rights Advocates
- Housing Rights Center Los Angeles
- La Raza Centro Legal
- Los Angeles Coalition to End Hunger & Homelessness
- MAAC Project
- Matthew Edling
- Mission Economic Development Agency
- Neighborhood Partnership Housing Services, Inc.
- Orange County Community Housing Corporation
- People Helping People
- Project Sentinel
- Public Interest Law Firm
- S.F. Consortium for Elder Abuse Prevention
- San Diego Home Loan Counseling & Education Center
- San Francisco Assessor-Recorder Phil Ting
- Sierra Planning & Housing Alliance, Inc.
- STAND Affordable Housing
- Vermont Slauson Economic Development Corp.
- Watsonville Law Center
- West Company

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## OPPOSITION

- California Credit Union
- California Independent Bankers
- California Mortgage Bankers Assoc
- California Bankers Association
- California Financial Services Association
- California Chamber of Commerce